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Annual Report

Indiana State Ethics Commission

2003

Mission:

To promote the ethical conduct of state officers and employees in the executive and administrative branch of state government.

Responsibilities and Authority

The Commission achieves its mission through:

- administering a program of education and training
- proposing legislation to the General Assembly
- adopting rules relating to conduct and ethics
- issuing advisory opinions
- enforcing statutes and rules, and
- evaluating and improving its operations and services.

By administering the *Code of Ethics for the Conduct of State Business*, the Commission itself receives complaints, initiates investigations, holds public hearings, decides if ethics violations have occurred, and recommends or imposes appropriate sanctions.

The current enabling statute is found at [IC 4-2-6](#), as amended in 2001. Most of the substantive rules are found at [40 IAC 2](#), effective November 21, 1991.

“It is a
rough road
that leads
to the
heights of
greatness.”
-Seneca

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Members of the Commission



Sherie Hampshire first joined the Commission in 1992 and later was appointed chairperson by Governor Frank O'Bannon on December 22, 1997.

Ms. Hampshire, an attorney in Fort Wayne, is president of Hampshire and Associates, PC. Prior to ownership of the law firm, Ms. Hampshire served as an associate from 1982-1984 and was a partner from 1984 to 1986.

Ms. Hampshire received her undergraduate degree in 1979 (magna cum laude) from Ball State University and earned her Doctor of Jurisprudence in 1982 from Valparaiso School of Law.

Ms. Hampshire, who lives in Fort Wayne, serves on the Executive Committee of the Allen County Family Law Committee and is a member of the Allen County Bar Association, the Indiana Bar Association, and is a Fellow of the American Academy of Matrimonial Lawyers. Ms. Hampshire has been selected: the Best Lawyers in America, 1999-2004; an Indiana Certified Family Law Specialist; a Registered Family Law Mediator; a Registered AAML Family Law Arbitrator; and a Master: Benjamin Harrison American Inn of Court. Ms. Hampshire was co-chair of the Allen County Bar Association Legal Ethics Committee, 2000-2001.



Sue Tuohy MacGill was appointed to the State Ethics Commission on February 16, 1995, by Governor Evan Bayh to a four-year term which expired September 1, 1999. Ms. MacGill was reappointed by Governor

Frank O'Bannon.

Ms. MacGill received her B.S. in Business from Indiana University, Bloomington, in 1978 and her Doctor of Jurisprudence from the Indiana University School of Law, Indianapolis, in 1983.

Prior to joining the Commission, Ms. MacGill worked as an Attorney with Wood Tuohy Gleason Mercer & Herrin. Ms. MacGill has served on the Board of Directors for the Social Health Association and the School Commission for St. Luke's School. Ms. MacGill is married and has four daughters.

"We must
use time
wisely and
forever
realize
that the
time is
always
ripe to do
right."
-*Nelson
Mendela*

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Alysia Christmas Rollock was appointed to the State Ethics Commission on January 18, 1996, by Governor Evan Bayh and was reappointed in 1999 by Governor Frank O'Bannon.

Ms. Rollock received her A.B. from Princeton University and her J.D. from Yale University School of Law in 1984. Ms. Rollock serves as Vice President for Human Relations and as an Associate Professor of Management at Purdue University. In March 1998, Ms. Rollock was appointed to the Indiana Commission for Continuing Legal Education.

Ms. Rollock was an Associate Professor of Law at the Indiana University School of Law-Bloomington (1992-1998) and an Associate with the law firms of Ice Miller (1988-92); Battle Fowler (1987-88); and Cahill, Gordon, and Reindell (1984-87). She serves on the Board of Directors of the Greater Lafayette Community Development Corporation. Ms. Rollock is a member of the Indiana State Bar Association and the American Bar Association. Ms. Rollock, her husband, David, and their three children live in West Lafayette, Indiana.



James Williams was appointed to the State Ethics Commission in February 2001 by Governor Frank O'Bannon.

Mr. Williams received his B.A. in Economics from Indiana University, Bloomington in 1964 and his J.D. from the University of Chicago in 1967.

Mr. Williams is an attorney with Middleton & Reutlinger which has offices in Jeffersonville and Louisville. Mr. Williams serves on the boards of the Clark County Public Defender, the District 14 Pro Bono Program, and the New Hope Services, Inc.



David Hadley, Chairman of the Political Science Department at Wabash College, was appointed February 20, 2002 by Governor Frank O'Bannon to a four year term. Hadley first joined the Commission in 1992 and served as chairperson from 1994 until his resignation in November 1997.

Hadley is a graduate of Indiana University with a B.A. degree in Journalism. He holds a M.A. and Ph.D. from Indiana University in Political Science.

“Hard work
spotlights
the
character of
people:
some turn
up their
sleeves,
some turn
up their
noses, and
some don't
turn up at
all.”

-Sam Ewig

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Staff

Timothy J. McClure

Director . . . is responsible for all agency administrative, legislative and legal activity, plus the supervision of staff.

Nina Brahm*

Attorney . . . advises the Director and the Commission on legal issues, and assists in the administration of the agency. The attorney also responds to questions on the state ethics code from state employees, officers and the general public.

David A. Clark

Investigator . . . performs fact-finding on all complaints, investigates all complaints and cases initiated by the Commission on its own or upon request of the Governor. The Investigator also audits Financial Disclosure Statements.

Mary C. Hill

Information Director . . . provides information services and administers a program of training for all employees of the executive branch.

Joann Flynn

Business Administrator . . . handles all correspondence, word processing, filing, purchasing, personnel matters, and maintains the Index of Conflict of Interest Statements. She is also responsible for financial accounting and for preparing the annual budget.

*succeeded Rachel McGeever who resigned June 2003.

Budget

FY 2002 - 2003

Appropriation
\$274,783.00

Actual Expenditure
\$261,036.34

Cost of Commission per:

capita (based on state population
of 5,544,159) = \$.0005

state employee (based on 38,000
state employees) = \$.07

*"He
that
always
gives
way to
others
will end
in
having
no
principles
of his
own."*

-Aesop

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Education & Training

Ethics training reaches employees at every level of state government. New employees receive ethics orientation by viewing a ten-minute video, [Ethics Rules for State Employees](#), and receiving an ethics booklet: [Indiana State Ethics Laws](#).

Supervisors and managers may participate in a class that establishes guidelines for handling ethics situations in the work place.

Agency heads, state officers, and ethics officers may choose between attending *Ethics for Executives*, or receiving individual training from a member of the Commission staff.

The above classes are offered on a quarterly basis. In 2003, 581 employees received orientation, 182 attended *Ethics for Supervisors and Managers*, and 36 attended *Ethics for Executives*.

In addition to the regularly scheduled classes, agencies and offices may request training sessions for their employees. In 2003, employees from nine agencies and one state office received training specific to their agencies.

In 2003, all the [above classes went online](#) so that employees could take the classes at their work stations. 2,160 employees took advantage of training at their convenience.

Training by State Offices & Agencies

In addition to the quarterly ethics classes offered by the State Ethics Commission, agencies and state offices are requested to provide orientation for new employees and training for supervisors (if applicable).

Agencies and offices file reports of their training activity with the Commission on a quarterly basis. These quarterly reports reflect the number of new employees receiving orientation training from their agencies. In the year 2003, there was a hiring freeze resulting in fewer new employees being trained than in previous years.

The total number of employees reported trained during 2003 was 1,043. The reported number of employees hired in 2003 was 1,071. Added to the 799 employees trained by the State Ethics Commission plus the 2,160 employees taking the online training, the total reached 4,002.

“The ultimate measure of a man is not where he stands in moments of comfort, but where he stands at times of challenge and controversy.”

*-Martin
Luther King,
Jr.*

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Post-Employment Training

As employees leave government service, they are given the post-employment guide, *Leaving State Government*, by their human resources representative or designated person.

The guide consists of laws that apply specifically to former state officers and employees of the executive and administrative branch of state government. At the end of the year, each agency and office is asked to report the number of employees who left state government and the number of those employees who received the guide. In 2003, 714 employees were reported to have left state government and 711 of those were able to receive the guide.

Public Information

Documents Available for Viewing & Copying: The State Ethics Commission maintains various filings (see Public documents below) for public inspection. All of these filings are available in the Commission's office during normal business hours (8:00 a.m. to 4:45 p.m.) on regular state working days.

The Commission also maintains files of minutes of its meetings, records of cases that go to public hearing (or where a settlement occurred after a finding of probable cause), and reports for cases in which an agreed settlement was reached.

In 2002, 442 Financial Disclosures and 15 Gift and Travel approvals were filed. The number of Conflict of Interest filings indexed was 1,029 (these were filings statewide as per IC 35-44-1-3). As always, the office responded to numerous phone calls, letters, and visits for guidance and information on ethics as well as meeting with people who dropped in for assistance.

Public Documents

Financial disclosure statements: required of state officers, candidates for state offices, executive branch agency heads, and certain other state employees.

Notices of recusal: due to conflicts or potential conflicts of interest.

Waivers: of the post-employment restriction.

Approvals: to accept certain gifts or travel-related reimbursements.

Index of filings: under the criminal conflict of interest law (original disclosures filed with the State Board of Accounts).

Reports of contributions and expenses to: Governor's Public Building Foundation and Governor's Residence Commission.

"A real leader faces the music, even when he doesn't like the tune."
-Anon.

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Code of Ethics

The *Code of Ethics for the Conduct of State Business* is the legal floor of minimum standards to which employees in the executive and administrative branch of state government must adhere. The code states what employees may and may not do.

Publications

The [2002 Annual Report](#) was added to the list of publications available on the Commission's web site. Hard copies of these publications (statutes, rules, and one-page guides) are available to the public and state employees. The newsletter, [Ethics News](#), is issued every other month and is available as a PDF file on the Internet.

A.D.A.

In compliance with the Americans With Disabilities Act (A.D.A.), the Commission's training videos are closed captioned and the ethics booklets: *Indiana Code of Ethics for the Conduct of State Business*, and *Indiana Ethics: A Guide to the Ethics Laws*, are available in braille.

Investigations

Procedure

Ethics laws (IC 4-2-6) authorize the Commission to initiate and conduct an investigation into an alleged violation upon its own initiative or upon the written request of the Governor. In addition, the Commission may receive sworn complaints of alleged ethics violations. If a complaint is not dismissed for failing to allege facts sufficient to constitute a code or statutory violation, or for being frivolous or inconsequential, the Commission investigates the complaint.

Alternatively, a complaint may be forwarded to a more appropriate authority or person for investigation. If a complaint is not dismissed or forwarded, the respondent(s) must be notified promptly that a complaint has been filed.

After the Commission conducts an investigation, it determines if there is probable cause to support an alleged violation. If the Commission does not find probable cause, the complaint is dismissed and the person who filed the complaint and the respondent are notified. In such a situation, all information received by the Commission in its investigation remains confidential unless the respondent waives the right to confidentiality and elects to have the records divulged.

If the Commission determines there is probable cause of a violation, the respondent must be notified and a public hearing must be set within sixty days of

"The rung
of a ladder
was never
meant to
rest upon,
but only to
hold a
man's foot
long
enough to
enable him
to put the
other
somewhat
higher."
-Thomas
Henry
Huxley

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the determination. The respondent may enter into a settlement concerning the facts and sanction, if the Commission agrees.

After the public hearing or acceptance of an agreed settlement, the Commission must issue a report stating its findings of fact and recommending or imposing sanctions. The Commission may recommend the appointing authority to reprimand, suspend, or dismiss the employee or the Commission may directly impose sanctions of a civil penalty, cancel a contract, or bar a person from contracting with an agency of state government.

The report of the Commission must be sent to the employee, the appointing authority of the employee, and the Governor. The Commission may also forward the report to the prosecuting attorney of a county in which the violation occurred, the State Board of Accounts, the state personnel director, the attorney general, a state officer, or any other appropriate person. The report is available for public inspection and copying.

Case Summaries

During 2003, the State Ethics Commission initiated eleven new cases and resolved four cases through agreed settlements that were pending from previous years. Seven of the new cases were initiated by the Commission based on information it had received. Four were initiated by formal complaints.

In two investigations initiated in 2003, the Commission found no probable cause and dismissed the cases. Four of the cases were resolved through agreed settlements and five were pending as of the beginning of 2004.

Issues Examined in 2003 Cases

Conflict of Interest	1
Misuse of State Resources/Time	6
Gifts/Favors	1
Post-Employment Restriction	2
Retaliation	1

Penalties Levied in 2003

Civil penalties assessed	\$14,530
Amount reimbursed to state	\$13,810

“Success
will not
lower its
standard to
us. We
must raise
our
standard to
success.”

-Rev.
Randall R.
McBride,
Jr.

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Financial Disclosures

Who Files?

One of the Commission's principal responsibilities is to administer the financial disclosure provisions of the statute. Persons required to file a [financial disclosure report](#) are: state officers, candidates for state office, chief executives of agencies in the executive branch of state government, the director of each division of the Department of Administration and purchasing agents within the Procurement Division of the Department of Administration.

The report may be filed online no later than February 1 for the previous calendar year or within sixty days of being employed or within thirty days of leaving employment. The person filing must affirm to the statement under the penalty of perjury and may file an amended statement upon discovery of additional required information.

Contents

The following information is required in the report:

- (1) The name and address of any person known:
(A) to have a business relationship with an agency, and (B) from whom the state officer, candidate, or employee, or that individual's spouse or unemancipated children received a gift or gifts having a total fair market value in excess of one hundred dollars (\$100).
- (2) The location of all real property in which the state officer, candidate, or the employee, or that individual's spouse or unemancipated children has an equitable or legal interest either amounting to five thousand dollars (\$5,000) or more or comprising ten percent (10%) of the state officer's, candidate's, or the employee's net worth, or the net worth of that individual's spouse or unemancipated children.
- (3) The names and the nature of the business of the employers of the state officer, candidate, or the employee and that individual's spouse. The state need not be listed as an employer.
- (4) The name of any sole proprietorship owned or professional practice operated by the state officer, candidate, or employee or that individual's spouse and the nature of the business.

"A
person
who
aims at
nothing
is sure
to hit
it."
-*Anon.*

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(5) The name of any partnership of which the state officer, candidate or the employee, or that individual's spouse is a member and the nature of the partnership's business.

(6) The name of any corporation (other than a church) in which the state officer, candidate, or the employee or that individual's spouse is an officer or director and the nature of the corporation's business.

(7) The name of any corporation in which the state officer, candidate, or the employee or that individual's spouse or unemancipated children own stock or stock options having a fair market value in excess of ten thousand dollars (\$10,000).

(8) The name and address of the most recent former employer.

Audits

The Investigator performs a desk audit on all reports making sure all forms are complete and filled out according to the given instructions. The Investigator also looks for information suggesting a conflict of interest or other impropriety. In 2003, there were no forms revealing information which led to a Commission-initiated investigation. All forms are maintained for public inspection.

Advisory Opinions

The State Ethics Commission is directed by statute to issue [Advisory Opinions](#) interpreting IC 4-2-6, 40 IAC 2, and any other statute or rule governing official conduct. Advisory Opinions are issued upon request or by the Commission's own motion.

If an Advisory Opinion is requested, an "inquiry" (written request) must be filed with the Commission at least seven days prior to a Commission meeting. The person submitting the inquiry must appear before the Commission at a monthly or special meeting and attest to the facts of their situation under affirmation of the penalty of perjury.

An Advisory Opinion is binding on the Commission in any subsequent allegations concerning the person who requested the opinion and who acted on it in good faith. The opinion is also a public record.

Employees are encouraged to ask their agency head, ethics officer, or supervisor for guidance about any situation which they feel might involve an ethics violation. In addition, employees may call the Commission's attorney and director for informal guidance. In 2003, two hundred twenty-four informal opinions were issued.

"The true test of character is not how much we know how to do, but how we behave when we don't know what to do."

-John Holt

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Public Office is a public trust . . .

Therefore, employees of state government must conduct themselves in such a manner that the general public will have confidence that their performance is always for the public good. The following statements are minimum standards of conduct for state employees to follow.

- Employees are to be impartial in the discharge of their duties.
- Decisions and policies must not be made outside the proper channels of state government.
- Public office is not to be used for private gain.
- Employees may not make unapproved use of state property, personnel, or facilities.
- Employees may not use state time for other than state duties.
- Employees may not benefit financially from information of a confidential nature gained through state employment.
- Employees may not solicit or accept outside payments for the performance of state duties.
- An employee may not accept a gift, favor, service, entertainment, food or drink which could influence the employee's action.
- Payment for an appearance, speech, or article may not be accepted if the appearance, speech, or article could be considered part of the employee's official duties.
- An employee may not accept payment of expenses for travel, conventions, conferences, or similar activities which could influence the employee's action.
- Employees may not have outside employment incompatible with their state employment or against their agency's rules.
- Supervisors may not solicit political contributions from employees they supervise.
- An employee may not solicit political contributions from persons or entities that have a business relationship with the employee's agency.

“The price of success is hard work, dedication to the job at hand, and the determination that whether we win or lose, we have applied the best of ourselves to the task at hand.”

-Vince Lombardi

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- Employees may not participate in decisions or votes of any kind in which the employees, their spouses, or dependent children have a financial interest.

- After leaving state government, former employees may not financially benefit from a contract they negotiated, prepared, or approved for one year.

- Former employees may not assist a person regarding a particular matter in which they participated as part of their state duties for one year after they had that responsibility.

*R*emember, people will
judge you by
your
actions, not your
intentions. You may
have a heart of gold —
but so does a hard-
boiled egg.
-Anon